S T A T E O F N E W Y O R K

10314

I N A S S E M B L Y

May 22, 2012

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to the admissibility as business records of recordings and logs made by the department of correction of the city of New York of inmate telephone calls

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Rule 4518 of the civil practice law and rules is amended by adding a new subdivision (h) to read as follows:

(H) A RECORDING MADE BY THE DEPARTMENT OF CORRECTION OF THE CITY OF NEW YORK OF AN INMATE'S TELEPHONE CALL, OR A LOG MADE BY SUCH DEPARTMENT CONTAINING IDENTIFYING INFORMATION ABOUT SUCH A CALL, SUCH AS THE TIME OF THE CALL, TELEPHONE NUMBERS OF ORIGIN AND DESTINATION OF THE CALL, INMATE IDENTIFICATION NUMBER USED TO PLACE THE CALL AND NAME OF THE INMATE ASSOCIATED WITH SUCH IDENTIFICATION NUMBER, IS ADMISSIBLE IN EVIDENCE UNDER THIS RULE WITHOUT FURTHER NEED FOR FOUNDATION TESTIMONY, PROVIDED THAT THE RECORDING OR LOG IS ACCOMPANIED BY A CERTIFICATION OR AUTHENTICATION BY A CUSTODIAN OF THE RECORDING OR LOG OR ANOTHER QUALIFIED PERSON FROM SUCH DEPARTMENT DESIGNATED FOR THAT PURPOSE THAT THE RECORDING OR LOG WAS MADE IN THE REGULAR COURSE OF SUCH DEPARTMENT'S BUSINESS, AND THAT IT WAS THE REGULAR COURSE OF SUCH BUSINESS TO MAKE THE RECORDING AT THE TIME OF THE INMATE'S TELEPHONE CALL OR TO MAKE THE LOG AT THE TIME OF THE INMATE'S TELEPHONE CALL OR WITHIN A REASONABLE TIME THEREAFTER. PRIOR TO THE TRIAL OR HEARING, THE PARTY SEEKING TO INTRODUCE THE RECORDING OR LOG INTO EVIDENCE SHALL PROVIDE AN ADVERSE PARTY WITH REASONABLE WRITTEN NOTICE OF THE INTENT TO OFFER THE RECORDING OR LOG AND SHALL MAKE THE RECORDING OR LOG AND THE CERTIFICATION OR AUTHENTICATION AVAILABLE FOR INSPECTION.

S 2. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD15499-03-2